

Message Text

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SUBJECT: ELECTORAL COURT INTERVENED

REF: 76 MONTEVIDEO 3438 (DTG 141955Z SEP 76)

1. SUMMARY: THE GOU ON JANUARY 27 ANNOUNCED INSTITUTIONAL ACT NO. 6, INTERVENING THE ELECTORAL COURT AND ITS DEPENDENC . THE GOVERNMENT BASED ITS ACTION ON THE FACT THAT THE COURT, NAMED BY ANOTHER GOVERNMENT WITH A DIFFERENT PHILOSOPHY AND BY PARTIES WHOSE ACTIVITIES ARE "MOMENTARILY SUSPENDED", NO LONGER REFLECTED INSTITUTIONAL REALITY. A NEW THREE-MEMBER COURT WAS APPOINTED. THE GOU MOVE WAS PROVOKED IN PART BY THE POLITICAL PARTIES WHO HAD PULLED THEIR REPRESENTATIVES OFF THE COURT IN AN EFFORT TO FORCE THE GOVERNMENT TO BREAK FURTHER WITH CONSTITUTIONALISM. IT DID. END SUMMARY.

2. THE ELECTORAL COURT, NATIONAL ELECTORAL OFFICE AND DEPARTMENTAL ELECTORAL BOARDS WERE INTERVENED BY MEANS OF INSTITUTIONAL ACT NO. 6, DATED JANUARY 19, BUT NOT MADE PUBLIC UNTIL JANUARY 27.

3. THE EXECUTIVE BASED ITS INTERVENTION OF THE COURT AND ITS DEPENDENCIES ON A NUMBER OF FACTORS, ALL ACCURATELY LIMITED OFFICIAL USE

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REFLECTING THE SITUATION. THE GOVERNMENT SAID: (A) THE COURT WAS NOT FUNCTIONING AS INTENDED BECAUSE ITS MEMBERS WERE NAMED BY A GOVERNMENT WHICH HAD A DIFFERENT PHILOSOPHY AND WHICH HAD TERMINATED; (SBL MEMBERS OF THE COURT REPRESENTED POLITICALPARTIES "WHOSE ACTIVITY IS MOMENTARILY SUSPENDED"; (C) VACANCIES RESULTING FROM THE RESIGNATIONS OF A NUMBER

OF MEMBERS OF THE COURT COULD NOT BE FILLED BY THE COUNCIL OF THE NATION UNDER EXISTING CONSTITUTIONAL PROVISIONS; (D) THE COURT NO LONGER REPRESENTED EXISTING INSTITUTIONAL REALITY; (E) THE EXECUTIVE ALSO NEEDED CONTROL OF THE NATIONAL CIVIC REGISTER AS A NECESSARY INSTRUMENT FOR "ANY POPULAR CONSULTATION" OR FOR THE "INITIATION OF THE ANNOUNCED ELECTORAL PROCESS; AND (F) THE TRADITIONAL POLITICAL PARTIES MUST BE REPRESENTED IN SPIRIT ON THE DELECTORAL COURTDURING THIS "TRANSITORY PERIOD".

4. INTERVENTIONALACT NO. 6 WENT ON TO INTERVENE THE BOCES MENTIONED, CHANGE THE STRUCTURE OF THE COURT TO INCLUDE THREE MEMBERS OF "WELL KNOWN AFFILIATION WITH THE TRADITIONAL PARTIES" AND LAY OUT ADMINISTRATIVE DETAILS.

5. COMMENT: THE ADMINISTRATION'S MOVE REPRESENTS A FURTHER BREAK WITH CONSTITUTIONALITY. AS REPORTED IN REFTTEL, BOTH TRADITIONAL PARTIES PULLED THEIR REPRESENTATIVES OFF THE COURT IN SEPTEMBER, SHORTLY AFTER PRESIDENT MENDET TOOK OFFICE. AT THE TIME PARTY REPS TOLD AN EMBOFF THAT THEIR INTENTION WAS TO FORCE A SESSION OF THE COUNCIL OF THE NATION TO NAME NEW MEMBERS ATO THE COURT, A MOVE WHICH WOULD REPRESENT ANOTHER BREAK WITH THE CONSTITUTION, WHICH REQUIRES PARTY CONCURRENCE FOR THE NOMINATIONS. THE GOVERNMENT IGNORED THE WITHDRAWLS UNTIL THE PRESIDENT OF THE COURT, FERNANDO ABDALA, RESIGNED ON JANUARY 17. ABDALA WAS A "NUETRAL", GOVERNMENT, RATHER THAN LIMITED OFFICIAL USE

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PARTY, APPOINTEE ANDRIS DEPDTURE APPARENTLY CONVINCED THE GOVERNMENT THAT THE COURT WAS FACING TOTAL DISINUGRATION. HAVING DECIDED TO ACT, THE GOVERNMENT FINESSED THE PROBLEM OF COUNCIL OF THE NATION NOMINATIONS BY INTERVENTION. NEVERTHELESS, THE PARTIES WERE SUCCESSFUL IN FORCING A BREAK WITH CONSTITUTIONALISM BUT THIS TYPE OF VICTORY IS PYRRHIC.

6. ON JANSERY 27, THE PRESIDENT NAMED THE NEWLY INTERVENED ELECTORAL COURT'S THREE MEMBERS. THEY ARE DR. NICOLAS STORACE ARROSA, PRESIDENT; DR. CAMILO PEREIRA URUENA, VICE PRESIDENT; AND RICARDO CERRO, MEMBER. SIRACUSA

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